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UNCLAS SECTION 01 OF 02 DHAKA 001126

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DEPARTMENT PLEASE PASS TO EB/OIA HEATHER GOERTHERT

E.O. 12958: N/A
TAGS: [CASC](#) [EINV](#) [KIDE](#) [OPIC](#) [PGOV](#) [BG](#)
SUBJECT: BANGLADESH: 527 REPORT

REF: STATE 55422

¶1. (SBU) The United States Government is aware of three (3) claims of United States persons that may be outstanding against the Government of Bangladesh (GOB).

¶2. a. Claimant A

b. 1979

c. In 1977 Claimant A entered into an agreement with the GOB Ministry of Agriculture. The agreement granted Claimant A a ten-year franchise to trap and export rhesus monkeys, with the obligation that Claimant A would build monkey-breeding farms in Bangladesh. The dispute began in January 1979 when the GOB terminated the contract after alleging that Claimant A had failed to begin building the breeding farms as agreed.

Claimant A immediately sought to resolve the dispute through direct discussions with Bangladesh, but those efforts failed. Claimant A then sought arbitration in accordance with the contract. In 1986, after the GOB failed to appoint an arbitrator, Claimant A appointed a sole arbitrator and received an arbitral award of over \$16 million. Claimant A then sought to enforce the award in Bangladeshi courts for ten years. In February 1996, a lower court ruled against Claimant A. Claimant A appealed the lower court decision to the High Court.

On March 14, 1999, the Bangladeshi High Court in Dhaka ruled in favor of Claimant A, but on November 2, 1999, the GOB filed an appeal in the Supreme Court. No hearing has yet been held on the appeal.

Since the early 1980s, the US Embassy has been in contact with the Government of Bangladesh to facilitate discussions with Claimant A. In 1995, the Embassy contacted the GOB to express concern that access to Bangladeshi courts was being denied. After the 1996 judgment, the US Embassy again contacted the GOB to encourage settlement. Since then, the Embassy has continued to monitor developments in the case.

Claimant A's representatives met with Ministry of Agriculture officials during the December 2-3, 2001 US Bangladesh Business Council's (USBBC) delegation visit to Dhaka. Claimant A continues to maintain its flexibility in negotiating a reasonable settlement, assuming the GOB is willing to begin such negotiations promptly, either in Washington, D.C. or in Dhaka. Early in 2002, Claimant A representatives met with GOB officials in Washington, and

expressed Claimant A's preference for resolving the matter amicably, but Claimant A officials also expressed firm plans to pursue all legal and political means to reach resolution. Claimant A has followed up with calls and letters to the Bangladesh Embassy asking for an update on the GOB's position, but received no response.

According to Claimant A's attorney, the case remains pending on appeal before the Bangladesh Supreme Court and no date has been set for a hearing. Stateside counsel met with the local attorneys in September/October 2006 in an attempt to expedite hearings on the appeal, but local counsel continues to feel that GOB does not view this as a high priority matter.

13. a. Claimant B

b. 1995

c. Claimant B, a US citizen, borrowed \$2.5 million from a Bangladeshi bank in 1989 to perform research and development, and to set up a factory to produce cataract lenses in Bangladesh. Claimant B apparently did not make his scheduled payments, and when his political connection fell from power, an anti-corruption case was filed against him (in 1992). Claimant B was arrested in 1995 and, after considerable US Embassy effort and congressional interest, he was released from jail and allowed to leave Bangladesh. Over the years there have been efforts to establish a reasonable payment plan, however Claimant B states that his factory, which employs 90 people, has never made an operating profit and that in order to pay more than \$5000 a month, he needs to be able to go to Bangladesh and run the factory without fear of arrest.

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A civil case against Claimant B, won by the bank for recovery of its funds, is on appeal and continues at an extremely slow pace. On Feb. 28, 2001, the Anti-corruption court delivered a guilty verdict, and sentenced him to seven years in prison and a \$4.63 million fine. In order to appeal, Claimant B had to surrender himself to arrest and imprisonment within 60 days. From March 2001, the US Government has received no further information on the criminal case.

14. a. Claimant C

b. 2004

c. From November 2001 to October 2004, Claimant C implemented a \$3.9 million judicial reform project pursuant to a contract supported by a loan from the World Bank to the GOB. Claimant C was not able to advance reforms as envisioned. As a result the GOB holds Claimant C responsible for non-performance and, pointing to an external evaluation prepared by a competitor of Claimant C showing only 41% of the contract was completed, is withholding the balance of \$1,194,725 due on the contract. Claimant C asserts that it produced significant deliverables where it was permitted to deliver under the contract, and that explicit limitation placed on it by the courts, along with other obstructions and delays from the GOB, frustrated its ability to perform in other areas.

The World Bank is actively seeking to resolve this matter, and has made several attempts to bring a mediator to Bangladesh to resolve this. Claimant C has sent a signed Advocacy Questionnaire to the US Department of Commerce's Advocacy Center, and Embassy Dhaka's commercial section is also actively engaged in attempting to resolve this claim. Most recent contact with the World Bank was in June of 2007.

15. (SBU) Claimant A: MOL, Bangladesh; (US investment); no known privacy act waiver

Claimant B: Dr. Mohammad Rafiquzzaman; US citizen; no known privacy act waiver

Claimant C: IRIS Center at the University of Maryland; US entity; no known privacy act waiver

¶6. (SBU) COMMENT: Claimant B's dispute involves a claim against him by a government-owned special purpose bank for repayment of a loan with interest due as per the loan agreement. Claimant B apparently does not dispute the underlying claim or the amount due, but sought to reach agreement on a payment plan to clear the debt. The parties have thus far been unable to negotiate a settlement of the debt, and the bank has obtained a judgment for the amount due against Claimant B. Based on information contained in paras 9 and 11 of reftel, Post believes this case is not an "investment" within the meaning of Section 527.

¶7. (SBU) Claimant C's dispute is included based on reftel's request to err on the side of inclusion. While the GOB's reliance on an external report prepared by a competitor of Claimant C is dubious, it is undeniable that the inherent objective of the contract was not reached, leaving at least a colorable dispute between the parties.

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